

Application No.: 10/605,624

Docket No.: 22137-00003-US1

REMARKS

Claims 1-3 and 5-11 remain pending in this application. Claims 1, 3, 6, 7, and 9 are independent. Claims 1, 3, 6, 7, 9, and 10 have been amended, claim 11 has been added, and claim 4 has been canceled by this amendment.

Objection to the Abstract

Withdrawal of the objection to the Abstract as exceeding 150 words is requested. The Abstract meets the requirements of MPEP § 608.01(b), as it actually contains 146 words, as ascertained by the "word count" utility available in Word®.

Objection to the Claims

Withdrawal of the objection to claim 1 for repeated use of the word "the" is requested. Claim 1 has been amended to overcome the stated basis for objection. In addition, claim 10 has been amended to correct a minor typographical error not previously objected to by the Examiner.

§112, ¶2 Indefiniteness Rejection

Withdrawal of the rejection of claims 1-10 under 35 U.S.C. §112, second paragraph, as being indefinite, is requested. Claim 1 has been amended in a manner which is believed to overcome the stated basis for rejection.

Deficiencies of the Anticipation Rejection over Weismann et al.

Withdrawal of the rejection of claims 1-10 under 35 U.S.C. §102(b), as being anticipated by Weismann et al. (US 5,908,366) is requested.

Applicant notes that anticipation requires the disclosure, in a prior art reference, of each and every limitation as set forth in the claims.<sup>1</sup> There must be no difference between the claimed

<sup>1</sup> *Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985).

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invention and reference disclosure for an anticipation rejection under 35 U.S.C. §102.<sup>2</sup> To properly anticipate a claim, the reference must teach every element of the claim.<sup>3</sup> “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference”.<sup>4</sup> “The identical invention must be shown in as complete detail as is contained in the ...claim.”<sup>5</sup> In determining anticipation, no claim limitation may be ignored.<sup>6</sup> The applied art fails to meet this threshold requirement at least with respect to independent claims 1, 3, 6, 7, and 9.

In particular, the applied art does not disclose a propulsion drive arrangement for a vehicle, which includes, among other features, “...a propulsion drive arrangement for a vehicle, which includes, among other features, “...wherein the input shaft and output shaft of the transfer case are both located on a same side of the transfer case corresponding to the one end of the engine, and wherein both the engine and transmission are arranged behind the axle and differential in a rear-mounted engine configuration,” as recited in independent claim 1, as amended. The amendment to independent claim 1 involves recitation of the subject matter of dependent claim 4, which has been canceled.

Further, the applied art does not disclose a propulsion drive arrangement for a vehicle, which includes, among other features, “...wherein the input shaft and output shaft of the transfer case are both located on a same side of the transfer case corresponding to the one end of the engine, and wherein the means for propelling the vehicle includes one or more propellers coupled to the transmission drive shaft through one or more associated propeller shafts,” as recited in independent claim 3, as amended. Dependent claim 3 has merely been amended into independent form.

In addition, the applied art does not disclose a propulsion drive arrangement for a vehicle, which includes, among other features, “...wherein the engine is located at a position which is

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<sup>2</sup> *Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 USPQ2d 1001 (Fed. Cir. 1991).

<sup>3</sup> See MPEP § 2131.

<sup>4</sup> *Verdegaal Bros. v. Union Oil Co. of Calif.*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

<sup>5</sup> *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

<sup>6</sup> *Pac-Tex, Inc. v. Amerace Corp.*, 14 USPQ2d 187 (Fed. Cir. 1990).

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laterally offset from and adjacent to a side of the transmission so as to be essentially parallel with the transmission along respective longitudinal axes thereof...wherein the input shaft and output shaft of the transfer case are both located on a same side of the transfer case corresponding to the one end of the engine...and wherein both the engine and transmission are arranged in front of the axle and differential in a mid-mounted engine configuration," as recited in independent claim 6, as amended. Dependent claim 6 has merely been amended into independent form.

Still further, the applied art does not disclose a method of providing propulsion for a vehicle which includes, among other features, "...wherein both the engine and transmission are arranged behind the one or more drive elements of the vehicle in a rear-mounted engine configuration," as recited in independent claim 7, as amended.

Finally, the applied art does not disclose a method of providing propulsion for a vehicle which includes, among other features, "...applying an output of the transmission to one or more drive elements of the vehicle, wherein the applying step includes applying the transmission output to a propeller," as recited in independent claim 9, as amended. Dependent claim 9 has merely been amended into independent form.

Weismann et al. clearly does not disclose all the claimed limitations of independent claims 1, 3, 6, 7, and 9. Weismann et al. is directed to a drive train specifically configured for four-wheel drive vehicles. A high/low transmission is located between the engine and transmission to reduce the torque loading on drive components. Weismann et al. does not disclose a transfer case, as disclosed and claimed in Applicant's specification. Further, Weismann et al. does not disclose a rear-engine, a mid-engine configuration, or a marine configuration with propellers, as variously disclosed and claimed.

#### New Claim 11

Newly presented dependent claim 11 has been drafted to avoid the applied art, and to claim another aspect of Applicant's invention. Consideration and allowance of claim 11 is requested.

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Conclusion

In view of the above amendments and remarks, Applicant believes that pending claims 1-3 and 5-11 in this application are in immediate condition for allowance.

In the event the Examiner believes that an interview would be helpful in resolving any outstanding issues in this case, the undersigned attorney is available at the telephone number indicated below.

Applicant believes no fee is due with this response. However, if a fee is due, please charge CBLH Deposit Account No. 22-0185, under Order No. 22137-00003-US1 from which the undersigned is authorized to draw.

Respectfully submitted,

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